



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0885]

RIN 1625-AA87

Security Zones; USCGC WILLIAM FLORES Commissioning Ceremony,
Ybor Channel; Tampa, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the waters of Ybor Channel in Tampa, Florida around the USCGC WILLIAM FLORES immediately before and during its Commissioning Ceremony that will be held on November 3, 2012, in the Port of Tampa, on Ybor Channel at Channelside Cruise Terminal 3, located in position 27°56.598'N, 082°26.724'W. The security zone will be enforced from 8 a.m. to 4 p.m. and is necessary to protect USCGC WILLIAM FLORES, official parties, dignitaries, the public, and surrounding waterways from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature. Entering or remaining in the security zone is prohibited unless authorized by the

Captain of the Port St. Petersburg or a designated representative.

DATES: This rule is effective and will be enforced on November 3, 2012, from 8 a.m. until 4 p.m.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2012-0885. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Boatswains Mate Second Class Gregory A. Belkin, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191 Ext. 8158, e-mail D07-SMB-Tampa-WWM@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202)366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

| | |
|------|---------------------------------|
| DHS | Department of Homeland Security |
| FR | Federal Register |
| NPRM | Notice of Proposed Rulemaking |

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard did not have necessary information regarding the event with sufficient time to publish an NPRM and to receive public comments in advance of the effective date of the security zone. Any delay in the effective date of this rule would be contrary to the public interest as immediate action is needed to protect USCGC WILLIAM FLORES, official parties, dignitaries, visiting officials, the public, and the

surrounding waterway from sabotage or other subversive acts, accidents, or other causes of a similar nature.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of this rule is to protect USCGC WILLIAM FLORES, official parties, dignitaries, visiting officials, the public, and the surrounding waterway from potential terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature.

C. Discussion of the Final Rule

On November 3, 2012, the USCGC WILLIAM FLORES Commissioning Ceremony will be held in the Port of Tampa, on Ybor Channel at Channelside Cruise Terminal 3, located in position 27°56.598'N, 082°26.724'W. The temporary security zone encompasses all waters of Ybor Channel within a 250-yard radius of USCGC WILLIAM FLORES. The security zone will be enforced from 8 a.m. until 4 p.m. on November 3, 2012. No vessels will be authorized to transit the security zone from 10 a.m. until 11 a.m. The security zone may cease to

be enforced prior to the end of the stated enforcement period if the commissioning ceremony has concluded, and the USCGC WILLIAM FLORES and visiting officials are departed ahead of schedule.

All persons and vessels are prohibited from entering or remaining in the security zone unless authorized by the Captain of the Port St. Petersburg or a designated representative. Persons and vessels desiring to enter or remain in the security zone may contact the Captain of the Port St. Petersburg by telephone at (727) 824-7524, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter or remain within the regulated areas is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. Recreational vessels authorized to enter or remain within the regulated areas may be subject to boarding and inspection of the vessel and persons onboard. The Coast Guard will provide notice of the security zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) the security zone will be enforced for a total of 8 hours; (2) the security zone will be in a location where commercial vessel traffic is expected to be minimal; (3) commercial vessel traffic may be authorized to transit the security zones to the extent compatible with public safety and security; (4) persons and vessels will be able to operate in the surrounding area adjacent to the security zones during the enforcement period; (5) persons

and vessels will be able to enter or remain within the security zones if authorized by the Captain of the Port St. Petersburg or a designated representative; and (6) the Coast Guard would provide advance notification of the security zone to the local community by Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter or remain within those portions of Ybor Channel encompassed within the security zone from 8 a.m. through 4 p.m. on November 3, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a

significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of

information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the

aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have Tribal implications under

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves

establishing temporary security zone, as described in paragraph 34(g) of the Instruction that will be enforced for a total of 8 hours. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Commandant Instruction. An environmental analysis checklist and categorical exclusion determination supporting this determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 165.T07-0922 to read as follows:

§ 165.T07-0922 Security Zones; USCGC WILLIAM FLORES

Commissioning Ceremony, Ybor Channel; Tampa, FL.

(a) Regulated Areas. The following regulated area is a security zone: all waters of Ybor Channel encompassed by a 250-yard radius around USCGC WILLIAM FLORES at Channelside Cruise Terminal 3 in the Port of Tampa, located in position 27°56.598'N, 082°26.724'W. All coordinates are North American Datum 1983.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard boat coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officials designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated areas.

(c) Regulations. (1) All persons and vessels desiring to enter or remain within the regulated area may contact the Captain of the Port St. Petersburg by telephone at (727) 824-7524, or a designated representative via VHF radio on channel 16, to request authorization.

(2) If authorization to enter or remain within the regulated area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a

designated representative. Recreational vessels authorized to enter the regulated area may be subject to boarding and inspection of the vessel and persons onboard.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Effective date. This rule is effective and will be enforced from 8 a.m. through 4 p.m. on November 3, 2012.

Dated: October 18, 2012

S. L. Dickinson
Captain, U.S. Coast Guard
Captain of the Port

[FR Doc. 2012-26604 Filed 10/29/2012 at 8:45 am;

Publication Date: 10/30/2012]